

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DELORIS BEST, KYWANI BEST AND IESHIA
BEST AS AN INDIVIDUAL AND AS THE
PARENT AND GUARDIAN OF THE INFANTS
JAVON BEST AND AL-LESHA BEST,

Plaintiff,

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISMISSAL**

05 CV 9905 (WHP)(HBP)

-against-

NEW YORK CITY, DETECTIVE CHET WILSON
SHIELD # 2609, SERGEANT DILAPI and
DETECTIVE DEXTER POWERS,

Defendants.
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WHEREAS, plaintiffs commenced this action by filing a complaint on or about November 23, 2005, alleging that defendants violated plaintiffs' federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiffs' allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

WHEREAS, plaintiffs have authorized counsel to settle this matter as against defendants on the terms enumerated below:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiffs the sum of Ninety-Six Thousand Dollars (\$96,000.00) in full satisfaction of all claims, including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiffs agree to dismissal of all the claims against the defendants; and to release all defendants and any present or former employees and agents of the City of New York, and the City of New York from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney's fees.

3. Plaintiffs shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. With respect to the infant plaintiffs, JAVON BEST AND AL-LESHA BEST, settlement of this action is conditioned on compliance with the provisions set forth in Rule 83.2(a) of the Local Civil Rules of this Court ("Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Conscious Pain and Suffering Actions") and Rule 1207 et seq. of the Civil Practice Laws and Rules for the State of New York.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York, the New York City Police Department or the New York City Department of Correction.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
November 9, 2006

Fred Lichtmacher, Esq.
Attorney for Plaintiff
60 East 42nd Street, Suite 2001
New York, New York 10165

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007
(212) 788-1177

By:


FRED LICHTMACHER (FL5341)
Attorney for Plaintiffs

By:


BRIAN MORGAN (BM 8799)
Assistant Corporation Counsel

SO ORDERED:

U.S.D.J.